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OFFICE OF PETITIONS

In re Application of :
Joseph NEEV :
Application No. 09/854,311 :
Filed: May 10, 2001 :
Attorney Docket No. YBEAM-03 :

**DECISION ON PETITION
UNDER 37 CFR 1.137(b)**

This is a decision on the request for reconsideration filed October 17, 2005 on the petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.


The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 2, 2004 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 3, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and amendment under 37 CFR 1.114; (2) the petition fee of \$750 for a small entity; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of March 2, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center Art Unit 3739 for appropriate action.


Frances Hicks
Lead Petitions Examiner
Office of Petitions